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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 4, 1999

Ex Parte

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 - 12<sup>th</sup> Street, SW - TW-A325  
Washington, D.C. 20554

Re: CC Docket No. 98-137; ASD 98-91

Dear Ms. Roman Salas:

On March 3, 1999, David Cunningham of BellSouth, Thomas Whittaker of Bell Atlantic, Dr. William Taylor of NERA and Frank McKennedy of the United States Telephone Association (USTA), all representing USTA, held seven meetings with Commission representatives to discuss the USTA Petition for Forbearance from Depreciation Regulation and the Commission's NPRM, CC Docket No. 98-137, 1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers.

USTA's representatives met with the following Commission staff: Dr. William Rogerson, Office of Plans and Policy; Tim Peterson, Fatina Franklin, Bob Loube, Chuck Needy, Tom David, and Wade Herriman of the Common Carrier Bureau Accounting and Audits Division; Lisa Zaina and Bill Bailey of the Common Carrier Bureau; Paul Gallant of Commissioner Tristani's office; Kyle Dixon of Commissioner Powell's office; Kevin Martin of Commissioner Furchgott-Roth's office; and Tom Power of Chairman Kennard's office. The USTA representatives discussed the USTA Petition for Forbearance from Depreciation Regulation, why forbearance is in the public interest, why the current depreciation rules set out in Part 32 are unnecessary, how these rules inefficiently duplicate the safeguards that exist in price cap regulation and how these price cap safeguards protect customers.

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Pursuant to Commission Rule 1.1206(b)(1), this transmittal letter and four copies of the written material used in the meetings are being provided to you for inclusion in the public record for these proceedings. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Frank McKennedy" with a stylized flourish at the end.

Frank G. McKennedy  
Director - Legal & Regulatory Affairs

attachment

cc w/o attachment: W. Rogerson  
T. Peterson  
F. Franklin  
B. Loube  
C. Needy  
T. David  
B. Bailey  
W. Herriman  
P. Gallant  
K. Dixon  
K. Martin  
T. Power  
D. Cunningham  
T. Whittaker  
W. Taylor  
L. Zaina

1998 BIENNIAL  
REGULATORY REVIEW  
(CC DOCKET NO. 98-137)



USTA PETITION FOR FORBEARANCE  
FROM DEPRECIATION REGULATION  
(ASD 98-91)

March 3, 1999

USTA Ex Parte: Forbearance from Depreciation Regulation

## BACKGROUND

- Telecommunications Act of 1996
  - Permits Forbearance (Section 220(b))
  - Requires Elimination of Unnecessary Rules and Regulations (Section 10)
  - 1998 Biennial Review Requirements (Section 11)
- Depreciation Identified by Commission as a “prime candidate” for Inclusion in 1998 Biennial Review
- USTA Petition for Forbearance Filed 9/21/98 (per Section 10 (c))
- FCC’s NPRM Released 10/14/98

- Forbearance is in the Public Interest
  - Eliminates Unnecessary Regulation
  - Fosters Efficiency of Price Cap Carriers
  - Promotes Competitive Market Conditions

- Continued Depreciation Regulation is Not Needed to Protect Consumers: Price Cap Regulation Provides Appropriate Protection
  - Price Caps Intended to Emulate Competition
  - Price Cap Mechanism Restrains ILEC Price Adjustments
  - Removal of Sharing Eliminates Significant Link to Rate of Return Regulation
  - Competition Disciplines ILEC Pricing in Competitive Markets

- Continued Depreciation Regulation is Not Needed to Protect Consumers: Other Safeguards
  - SEC Financial Reporting
  - Annual Independent Audits
  - FCC Tariff Review Process
  - FCC Complaint Process

- Continued Depreciation Regulation is Not Needed to Ensure Price Cap Carriers' Charges, Practices, Classifications or Regulations are Just and Reasonable



- Forbearance Would Not Significantly Affect:
  - Calculation of Low-End Adjustment
    - Adjustments very rarely sought
    - ILECs have burden of proof to support an adjustment
    - ILEC LFAM filing subject to FCC review
  - Recalculation of Productivity-Factor
    - Depreciation changes have no effect on X-factor using the FCC Model
    - Future X-factor adjustments to depend on industry-wide performance rather than individual ILEC interstate earnings

- Forbearance Would Not Significantly Affect: (cont'd)
  - Exogenous Cost Determination
    - FCC Part 61 Rules require specific review of proposed exogenous adjustments due to changes in Part 32
    - Forbearance does not automatically trigger an exogenous cost event
  - Base Factor Portion Calculation
    - Common Line Basket PCI to be calculated solely on revenue rather than revenue requirement basis
    - Changing Depreciation rates cannot affect EUCL, PICC and CCL Charges

- Forbearance Would Not Significantly Affect: (cont'd)
  - Above-Cap Tariff Filings
    - ILECs must provide detailed support for “above-cap” tariff filings
    - Commission has final authority to allow prices to go into effect

- Forbearance Would Not Significantly Affect: (cont'd)
  - Rates for Interconnection or UNEs or Universal Service Support
    - Forward-looking price mechanisms should reflect economic depreciation factors, not factors set using historical behavior
    - With or without Forbearance, FCC could substitute their own depreciation parameters for these issues
    - All UNEs and Universal Service costs are subject to State and Federal review

# Summary

- The Commission should Forbear from Regulating Depreciation NOW
- Forbearance is in the Public Interest and meets all the Goals of the Act
- Forbearance denies Consumers no Protections
- Forbearance does not significantly affect any of the Calculations about which the Commission was Concerned
- Forbearance promotes Efficiency and Competition